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5 **DISTRICT COURT FOR THE UNITED STATES**  
6 **DISTRICT OF ARIZONA**

6 Keith Ranieri,

7 Plaintiff,

8 v.

9 Merrick Garland, US Attorney General;  
Michael Carvajal, Director Federal Bureau  
10 of Prisons; Danon Colbert, Warden USP  
Tucson, Anthony Gallion (all in their  
11 official capacities),

12 Defendants

Case No.: 4:22-cv-00212-RCC-PSOT

**PLAINTIFF’S REPLY TO  
RESPONSE IN OPPOSITION TO  
MOTION FOR TEMPORARY  
RESTRAINING ORDER  
(Expedited Consideration Requested)  
(Hearing Requested)**

13 Plaintiff, via counsel, replies to Defendants’ Opposition<sup>1</sup> to Plaintiff’s Motion for a  
14 Preliminary Injunction and Temporary Restraining Order at Doc. 14.

15 The Defendants complain about many things, but none of them are justification for  
16 preventing Plaintiff from speaking to his Power-of-Attorney and the manager of his legal  
17 team, Suneel Chakravorty. Plaintiff summarizes the Defendants’ arguments here without  
18 conceding them:<sup>2</sup>

19 **1. “Disparagement”:** First, the Defendants complain that Plaintiff and Mr.

20 <sup>1</sup>No appearance has been entered.

21 <sup>2</sup>Mr. Chakravorty has full transcripts of the phone calls that Defendants complain of, and  
22 take out of context. Additionally, those calls were made in the larger context of the post-  
conviction relief efforts. These transcripts and other evidence that provides full context  
will be filed as soon as possible as an exhibit to this motion.

1 Chakravorty disparaged the judge and the criminal prosecution in his criminal  
2 case. Doc. 14, p.2.

3 2. **“Publicity”**: Second, that the non-privileged and monitored phone calls were used  
4 in podcasts and other publicity. Doc. 14, p.3.

5 3. **“Dancing women and Donuts”**: Third, that Plaintiff is charged with posing a  
6 security risk to the prison by causing women to dance outside the prison and offer  
7 prison employees donuts and coffee. Doc. 14, p.3.

8 4. **“Established relationship”**: Fifth, that Mr. Chakravorty did not have an  
9 established relationship with Plaintiff prior to his incarceration. Doc. 14, pp.5-6.

10 5. **“NXIVM affiliation”**: And finally, that Mr. Chakravorty is “affiliated” with  
11 NXIVM. Doc. 14, pp. 6-7.

12 The Defendants appear to admit that their justification for banning Mr.  
13 Chakravorty consists mainly of their dislike for his effectiveness in assisting Plaintiff: the  
14 **disparagement** of the government; the **established relationship** standard (which  
15 conveniently contains exceptions to *either having or not having* an established  
16 relationship based on vague references to “the security... of the institution”); and the  
17 **NXIVM affiliation** arguments are all factors that can also be viewed as perfectly  
18 innocuous and legal activities that are reasonable for the Power-of-Attorney and  
19 paralegal/manager of the legal team.

20 The Defendants argue that Plaintiff still has access to his attorneys, and that Mr.  
21 Tully has never issued a pledge to supervise Mr. Chakravorty’s activities. However, Mr.  
22 Chakravorty had been communicating with Mr. Raniere - without incident - up until May

1 2, 2021, when Defendants suddenly decided that, in their opinion, Mr. Chakravorty “did  
2 not have an **established relationship** with Plaintiff prior to his incarceration.” Doc. 14,  
3 p.6.

4 Defendants also argue that Mr. Chakravorty is suspect because of his **NXIVM**  
5 **affiliation**. However, both cannot be simultaneously true: either Mr. Chakravorty *had* an  
6 **established relationship** with Plaintiff via his alleged **NXIVM affiliation**, which would  
7 weigh in favor of allowing communications, OR he *did not* have an **established**  
8 **relationship** with Plaintiff and therefore no **NXIVM affiliation**, which would also weigh  
9 in favor of allowing communications, according to Defendants’ logic. Defendants here  
10 are using misdirection to show the Court the picture that they want it to see: i.e. ‘heads I  
11 win, tails you lose’.

12 Additionally, NXIVM was never adjudged a criminal organization, only Plaintiff’s  
13 “inner circle”, which *does not* include Mr. Chakravorty. Therefore any **NXIVM**  
14 **affiliation** is entirely innocuous and insufficient to justify any legitimate penological  
15 goal.

16 Defendants also argue that, because Mr. Chakravorty spoke to Plaintiff on a  
17 monitored line, that he voided the attorney/client privilege. This is also a logical  
18 inconsistency: Defendants admit that they do not recognize Mr. Chakravorty as a legal  
19 professional, despite his position as paralegal and manager of the legal team, therefore he  
20 was forced to communicate on a monitored line. This allowed Defendants to listen to the  
21 conversations and determine whether the communications posed any threat to the prison,  
22 and if so, to take steps to mitigate the harms. Despite all of this monitoring, Mr.

1 Chakravorty was allowed to visit with Plaintiff until May 2, 2021. Now, Defendants seek  
2 to use these *monitored* communications against Plaintiff’s claims, including the  
3 **Disparagement** and **Publicity** arguments.

4           However, the fact that Mr. Chakravorty has been the moving force behind  
5 Plaintiff’s post-conviction relief efforts does not detract from his central role in managing  
6 the legal team. Defendants fail to draw a significant distinction between being an  
7 “ardent” supporter, and being a trusted power-of-attorney and paralegal and legal  
8 manager. There is no reason why he cannot be both. Indeed, Mr. Chakravorty is more  
9 than just a paralegal, he is the lynchpin of the legal team, having hired and fired attorneys  
10 for Plaintiff. Therefore being able to speak with his attorneys does Plaintiff no good  
11 without the technical interpreter and supporter who has been the driving force behind  
12 Plaintiff’s post-conviction relief efforts for nearly three years.

## 13 **II. Law & Argument**

14           Defendants use the *Turner* standard to argue against Plaintiff’s right to Free  
15 Speech. However, the *Turner* standard does not apply when attorney/client  
16 communications, and access to the courts are implicated.

17           Following *Wolff*, courts have analyzed claims regarding the  
18 confidentiality of attorney-inmate communications under  
19 various constitutional principles, including the First  
20 Amendment right to freedom of speech and the Fourteenth  
21 Amendment rights to due process and access to the courts, or  
22 some combination of these rights. Courts also have  
recognized that “while most cases brought by prisoners are  
civil... [a] practice of prison officials reading mail between a  
prisoner and his lawyer in a criminal case would raise serious  
issues under the Sixth Amendment ... which guarantees a  
right to counsel in criminal cases.” *Guajardo–Palma v.*

1           *Martinson*, 622 F.3d 801, 803 (7th Cir.2010); see also  
2           *Merriweather v. Zamora*, 569 F.3d 307, 317 (6th Cir.2009)  
3           (“[O]pening properly marked legal mail alone ... implicates  
4           both the First and Sixth Amendments because of the potential  
5           for a ‘chilling effect.’”); *Altizer v. Deeds*, 191 F.3d 540, 549  
6           n. 14 (4th Cir.1999) (“Inspecting an inmate's legal mail may  
7           implicate the inmate's Sixth Amendment right to  
8           communicate freely with his attorney in a criminal case.”).

9           *Nordstrom v. Ryan*, 762 F.3d 903, 909 (9th Cir. 2014).

10           It is not surprising that the Defendants focus on the deferential *Turner* standard  
11           instead of the stricter First and Sixth Amendment standards. In *Nordstrom*, the plaintiff  
12           there was in the same legal posture as Mr. Raniere is here: his appeals are done, and he is  
13           pursuing post-conviction relief, with an upcoming deadline. Another similarity between  
14           *Nordstrom* and Plaintiff here is the creativity of the prison administrators in imagining  
15           things that *might be* a threat to prison security, but probably are not:

16                     The district court is correct that outgoing legal mail *could* be  
17                     used to facilitate criminal activity, but ADC did not present  
18                     any evidence that this has ever happened, or that it is likely to  
19                     happen.

20           *Nordstrom v. Ryan*, 856 F.3d 1265, 1273 (9th Cir. 2017) (emphasis in original).

21           Similarly here, things such as **Dancing women and Donuts** outside the prison  
22           fences pose no obvious threat to prison security. Indeed, Defendants admit that the  
23           problem was easily solved by moving Plaintiff to a different side of the prison. Nor does  
24           **Publicity** pose any threat to prison security, but rather is a crucial right:

25                     When the prison gates slam behind an inmate, he does not  
26                     lose his human quality; his mind does not become closed to  
27                     ideas; his intellect does not cease to feed on a free and open  
28                     interchange of opinions; his yearning for self-respect does not  
29                     end; nor is his quest for self-realization concluded.

1  
2 *Procunier v. Martinez*, 416 U.S. 396 (1974) overruled on other grounds by *Thornburgh v.*  
3 *Abbott*, 490 U.S. 401 (1989)).

4 Finally, regarding the Defendants’ request that Mr. Chakravorty be supervised by  
5 an attorney, he is willing comply.

6 **III. Conclusion.**

7 Plaintiff has an *extremely narrow* window in which to finalize his post-conviction  
8 relief petitions based on newly discovered evidence. Defendants are actively thwarting  
9 those efforts by imagining threats to institutional security that have no basis in reality.  
10 Plaintiff will be irreparably harmed if he is forced to miss this window of opportunity.  
11 On the other hand, Defendants will suffer no harm or burden at all – only the burden of  
12 enforcing the constitutional rights of those they claim to be “correcting”. For the United  
13 States of America, the Constitution can never be a burden.

14 Therefore Plaintiff has met all of the factors necessary to obtain an emergency  
15 Order that Plaintiff be allowed to communicate with Mr. Chakravorty

16  
17 DATED this 10th day of June, 2022 by

18 /s/Stacy Scheff  
19 STACY SCHEFF  
Attorney for Plaintiff

20 Delivered via ECF  
21 to all registered parties